

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

SURALEB, INC.

Plaintiff,

v.

PRODUCTION ASSOCIATION “MINSK  
TRACTOR WORKS,” REPUBLIC OF BELARUS

Case No. 10-C-104-RTR

Hon. Rudolph T. Randa

**SURALEB’S MOTION FOR LEAVE TO FILE SURREPLY  
IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS**

Plaintiff, Suraleb, Inc. (“Suraleb”) respectfully moves this Court for leave to file a two-page Surreply for the purpose of responding to a new factual contention made by Defendant at page 7 of its Reply Brief [Docket # 12], which is beyond the scope of Suraleb’s Complaint, is not appropriate for a Rule 12(b)(6) dismissal motion, and cites no evidence to support it.

A surreply is appropriate to address issues first raised in a reply brief. *See Wisconsin Alumni Research Foundation v. Intel Corp.*, 656 F. Supp. 2d 898, 901-02 (W. D. Wis. 2009) (granting motion for leave to file surreply where defendant raised argument for first time in reply brief); *Vanderwerf v. Planet Eclipse, Ltd.*, No. 08-cv-358-bbc, 2008 WL 4762047, at \*1 (W.D. Wis. Oct. 28, 2008) (“Plaintiff did not make his timeliness argument until he filed his reply brief. Because this was a new argument, I granted the motion of defendants . . . to file a surreply brief to address plaintiff’s new arguments.”). See also *Lewis v. Rumsfeld*, 154 F.Supp.2d 56, 61 (D.D.C.2001); and *Ben-Kotel v. Howard Univ.* 319 F.3d 532, 536 (D.C. Cir. 2003) (a surreply is routinely granted when a party is unable to contest matters presented to the court for the first time).

WHEREFORE, Suraleb respectfully requests leave to file the two-page Surreply attached hereto as Exhibit A.

Dated in Milwaukee, Wisconsin this \_\_\_ day of May, 2010.

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